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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,358	03/30/2004	Yojiro Kinoshita	001309.00059	4108

22907 7590 03/07/2006

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

EXAMINER

GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,358

Applicant(s)

KINOSHITA ET AL.

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7,9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) 7,9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,5, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Swenson (4,156,544). Swenson discloses the use of a backrest for chair (16) comprising frame elements (60,61) arranged in pairs at right and left sides, a flexible support member (71) that bridges the frame elements to support a load of a body of a seated person and an adjust mechanism (205) that can change a degree of the support member is bent and that can maintain the degree of the support member is bent against the load of the seated person; wherein the adjust mechanism is engaging structure between a pin (440) one of the support member and the frame adjust mechanism mounted on either element and at least one engaging hole (439) formed on the other and an engaging portion where the pin can engage the engaging hole in various positions, see figures 21-22. In regards to claim 2, wherein the adjust mechanism is arranged at least on at least the right and left sides and the degree of the support member is bent and varied by fastening one end side of the support member one of multiple different portions of the frame element located at a corresponding side. In

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regards to claim 13, the support member is arranged at a height generally corresponding to a lumbar of the seated person.

Claims 1-2,5, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sheldon (4,153,293). Sheldon discloses the use of a backrest for chair (10) comprising frame elements arranged in pairs at right and left sides (16,18 figure 2), a flexible support member (22) that bridges the frame elements to support a load of a body of a seated person and an adjust mechanism (44) that can change a degree of the support member is bent and that can maintain the degree of the support member is bent against the load of the seated person; wherein the adjust mechanism is engaging structure between a pin (25) one of the support member and the frame adjust mechanism mounted on either element and at least one engaging hole (27) formed on the other and an engaging portion where the pin can engage the engaging hole in various positions, see figures 3 and 5. In regards to claim 2, wherein the adjust mechanism is arranged at least on at least the right and left sides and the degree of the support member is bent and varied by fastening one end side of the support member one of multiple different portions of the frame element located at a corresponding side. In regards to claim 5, the engaging hole has multiple engaging edge portions that make an engagement with the pin, and holds the pin when the load of the seated person is applied to the support member and the engaging edge portions are communicating each other and the pin can be changed from a state of engaging an engaging edge portion to state of engaging another engaging edge portion by operating the pin to move along the engaging hole, see figures 3-4. In regards to claim 12, wherein the adjust mechanism has an

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operating portion (31) to operate the support member in order to change a bent degree of the support member; and the operating portion is exposed to a side portion of a back face. In regards to claims 13-14, the support member is arranged at a height generally corresponding to a lumbar of the seated person.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheldon in view of Peterson (6,220,661). Sheldon shows the use of all the claimed invention but fails to show the use of a covered bag shaped upholstery member. Peterson teaches the use of a bag shaped upholstery member. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the backrest with a bag shaped upholstery member as taught by Peterson, in order to protect the backrest from being damaged.

Response to Arguments

Applicant's arguments with respect to claims 1-2, 5 and 12-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


EG
March 3, 2006


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600